

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of License 4886 (Application 9726)

Ferandell Tennis Courts, Inc.

ORDER REVOKING LICENSE

SOURCE: Churn Creek tributary to Sacramento River

COUNTY: Shasta

WHEREAS:

1. The State Water Resources Control Board (State Water Board) issued License 4886 to Melvin A. Tanem (Licensee) on December 11, 1957. The license authorizes the Licensee to directly divert one-tenth (0.1) cubic foot per second from May 1 to October 31 of each year for irrigation use.
2. The Division of Water Rights (Division) assigned and re-assigned the license as follows: 1) Erle F. and Nola Jean Shoup on November 29, 1963; 2) Jack and Beverly Owens on June 5, 1981; 3) Jaxon Baker on May 6, 1985, and 4) City of Redding, Ferandell Tennis Courts, Inc. and McConnell Foundation on February 23, 2004.
3. The Division has no records to show that any water has been diverted under License 4886 for irrigation since 1959. The triennial Progress Report by Licensee for 1957, 1958 and 1959 states that water was used to raise milo on 15 acres of land. The next triennial Progress Report by Licensee submitted to the Division of Water Rights (Division) is for 1964-1966, and it shows that no water was used in any of those years. The triennial Progress Report by Licensee for 1967-1969 states that the full licensed amount of water was not used each year. No irrigation occurred. Water was used for stockwatering in 1968 and 1969. The next and final triennial Progress Report by Licensee filed with the Division is for 1981-1983. The report states that the landowner acquired the property in February of 1985 and has no knowledge of water used for 1981-1983. Licensee has failed to submit a progress report since 1983.
4. When a person fails to use beneficially all or any part of the water claimed by him for the purpose for which it was appropriated or adjudicated for a period of five years, such unused water may revert to the public. (Wat. Code § 1241.)
5. Licensee McConnell Foundation filed a revocation request form dated April 2, 2004, seeking revocation of its portion of the license. Licensee City of Redding filed a revocation request form dated July 9, 2004, seeking revocation of its portion of the license.

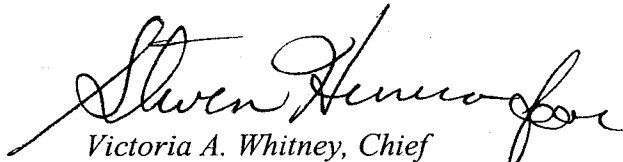
6. Licensee Ferandell Tennis Courts, Inc. (Ferandell) advised Division staff during a telephone conversation on September 15, 2004, that it does not use the water and would like to revoke its portion of the right. Paul Ferandell advised Division staff during a January 3, 2005 telephone conversation that he submitted a revocation request form. The Division has no record of receiving the request.

Based on the above facts, the Division concludes that:

1. Licensee has not, or has ceased to, put the water granted under License 4886 to a useful or beneficial purpose.
2. Licensee has not applied the water to beneficial use for at least five consecutive years. Therefore, water claimed under License 4886 should be deemed to have reverted to the public under Water Code section 1241 because Licensee has provided no basis for determining that it should not revert.
3. On July 13, 2005, Licensee was provided notice by certified mail of the proposed revocation. The notice provided the Licensee the opportunity to object to the proposed revocation and request a hearing.
4. The Licensee did not submit a request for a hearing to the Division.
5. The State Water Board has found that Licensee failed to apply the water to beneficial use under the terms and conditions of this license.

THEREFORE, IT IS ORDERED that License 4886 is hereby revoked by the State Water Board pursuant to Water Code section 1675, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

STATE WATER RESOURCES CONTROL BOARD



*Victoria A. Whitney, Chief
Division of Water Rights*

Dated: **JAN - 7 2008**



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 9726

PERMIT 5474

LICENSE 4886

THIS IS TO CERTIFY, That

Melvin A. Tanem
Route 1, Box 3100
Redding, California

Notice of Assignment (Over)

has made proof as of May 21, 1956

(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of Churn Creek in Shasta County

tributary to Sacramento River

for the purpose of irrigation use
under Permit 5474 of the State Water Rights Board and that said right to the use of said water has been perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the terms of the said permit; that the priority of the right herein confirmed dates from September 13, 1939; and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed one tenth (0.1) cubic foot per second to be diverted from about May 1 to about October 31 of each year.

The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with other vested rights.

The point of diversion of such water is located at any point on Churn Creek between the north line of Section 29, T32N, R4W, MDB&M, and a point on Churn Creek south nine hundred seven and five tenths (907.5) feet from the north line of said Section 29, being within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 29.

A description of the lands or the place where such water is put to beneficial use is as follows: 12 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 29, T32N, R4W, MDB&M.

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the State Water Rights Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

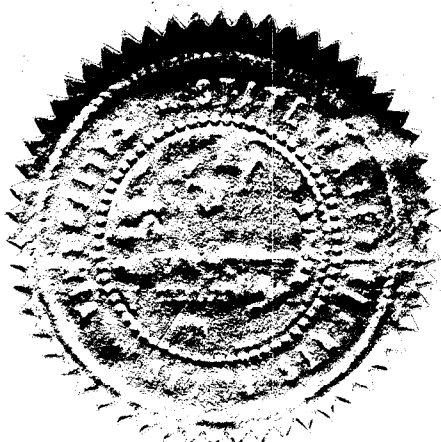
Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: DEC 11 1957

STATE WATER RIGHTS BOARD



By Leslie C. Jopson
LESLIE C. JOPSON
Chief Engineer

11/29/63 RECEIVED NOTICE OF ASSIGNMENT TO Edgar & Helen Sharp
6-5-81 asgs to Jack & Beverly Owens

LICENSE 4886

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

LICENSE
TO APPROPRIATE WATER

ISSUED TO Melvin A. Tanem

DATED DEC 11 1957